
AGENCY OVERVIEW**140 Office of Administrative Hearings**

Date: 01/13/2011**Time:** 11:11:34**Statutory Authority**

North Dakota Century Code Sections 12-59, 37-19.1, 28-32-31, 40-51.2, 40-47-01.1, 54-57-03, and 61-03-22.

Agency Description

The Office of Administrative Hearings is an executive branch agency that provides independent administrative law judges to preside over state and local administrative hearings and related proceedings. Hearings are conducted under authority from the Administrative Agencies Practices Act (North Dakota Century Code Chapter 28-32), specific agency statutes, agency procedural rules, and the Uniform Rules of Administrative Procedure for Adjudicative Proceedings (North Dakota Administrative Code Article 98-02).

Agency Mission Statement

The Office of Administrative Hearings ("OAH") is an executive branch agency that provides independent administrative law judges ("ALJs") to preside as hearing officers over state and local administrative hearings and related proceedings. The mission is to:

- provide ALJs for all state ch. 28-32 agencies required to use OAH services.
- provide ALJs for those state agencies not under ch. 28-32 and units of local government that are required to use OAH services.
- provide ALJs, upon request, for those state agencies that are not required to use OAH services.
- provide ALJs, upon request, for state agency rules hearings.
- provide ALJs, upon request, for any unit of local government.
- provide ALJs, upon request, for any tribal government in this state.
- provide ALJs, upon request, for the judicial branch.

OAH ALJs preside as procedural or substantive ALJs for all state agencies required to use OAH services. A procedural ALJ conducts the hearing and related proceedings, but the agency head, who must be present at the hearing, issues the findings of fact, conclusions of law, and order. A substantive ALJ conducts the hearing and related proceedings and issues recommended findings of fact and conclusions of law, and a recommended order. The agency head issues the final order. For many agency matters OAH ALJs conduct the hearing and issue the final order. OAH ALJs also preside as procedural or substantive ALJs for those state agencies and units of local government that are not required to use OAH services. They also preside at agency rules hearings, conducting the hearing only.

OAH ALJs conduct hearings under authority from the Administrative Agencies Practices Act (North Dakota Century Code chapter 28-32), specific agency statutes, agency procedural rules, the Uniform Rules of Administrative Procedure for Adjudicative Proceedings (N.D. Admin. Code article 98-02), and federal statutes and rules.

Agency Performance Measures

Performance measures have been implemented for all agencies for which OAH conducts hearings. Essentially, the performance measures are case processing guidelines, measuring the length of time to "process" various components of administrative proceedings. Although performance measures for conducting administrative hearings are a helpful management tool, because of the inherent variability in hearings, they should be considered as guidelines and not strict performance measures. See 2007-2009 Biennial Report for OAH ALJ performance.

Major Accomplishments

1. Resumed conducting hearings for Workforce Safety and Insurance through contracted administrative law judges.
2. Established performance measures for conducting hearings for all user agencies.
3. Continued active participation in national administrative law judge and hearing officer organizations, including the National Association of Hearing Officials, the National Association of Administrative Law Judges, and the Central Panel Director's Conference.

AGENCY OVERVIEW**140 Office of Administrative Hearings**

Date: 01/13/2011**Time:** 11:11:34**Future Critical Issues**

The scope of OAH jurisdiction (expansion of jurisdiction), i.e., whether independent ALJs should be required for other state agencies besides those now under OAH jurisdiction, continues to be an issue. See "Future Critical Issues" in 2005-2007, 2007-2009, and 2009-2011 budget proposals. Legislation has been introduced in the Legislative Assembly over the years to require exempt agencies to use OAH. A successful initiated measure in 2008 required WSI to use OAH. Legislation has been passed to expand OAH jurisdiction for some local entities. OAH is not proposing any legislation for expansion of jurisdiction. However, OAH needs to continue to be concerned about whether voluntary agency users will continue to voluntarily use OAH.

REQUEST SUMMARY

140 Office of Administrative Hearings

Bill#: HB1017

Date: 01/13/2011

Time: 11:11:34

Biennium: 2011-2013

Description	Expenditures 2007-2009 Biennium	Present Budget 2009-2011	Budget Request Change	Requested Budget 2011-2013 Biennium	Optional Budget Request
By Major Program					
Office of Administrative Hearings Services	1,561,428	1,498,712	276,655	1,775,367	0
Total Major Program	1,561,428	1,498,712	276,655	1,775,367	0
By Line Item					
Salaries and Wages	1,044,510	906,595	19,755	926,350	0
Operating Expenses	516,918	592,117	256,900	849,017	0
Total Line Items	1,561,428	1,498,712	276,655	1,775,367	0
By Funding Source					
General Fund					
Federal Funds					
Special Funds	1,561,428	1,498,712	276,655	1,775,367	0
Total Funding Source	1,561,428	1,498,712	276,655	1,775,367	0
Total FTE	8.00	5.00	0.00	5.00	0.00

REQUEST DETAIL

140 Office of Administrative Hearings

Bill#: HB1017

Date: 01/13/2011

Time: 11:11:34

Biennium: 2011-2013

Description	Expenditures 2007-2009 Biennium	Present Budget 2009-2011	Budget Request Change	Requested Budget 2011-2013 Biennium	Optional Budget Request
Salaries and Wages					
Salaries - Permanent	764,388	684,317	16,688	701,005	0
Salaries - Other	0	2,500	(2,500)	0	0
Temporary Salaries	0	2,500	(2,500)	0	0
Overtime	0	0	5,001	5,001	0
Fringe Benefits	280,122	217,278	3,066	220,344	0
Total	1,044,510	906,595	19,755	926,350	0

Salaries and Wages

General Fund	0	0	0	0	0
Federal Funds	0	0	0	0	0
Special Funds	1,044,510	906,595	19,755	926,350	0
Total	1,044,510	906,595	19,755	926,350	0

Operating Expenses

Travel	22,057	22,000	0	22,000	0
Supplies - IT Software	3,686	15,200	0	15,200	0
Supply/Material-Professional	442	2,244	0	2,244	0
Miscellaneous Supplies	0	3,235	0	3,235	0
Office Supplies	3,260	7,283	0	7,283	0
Postage	8,537	11,400	0	11,400	0
Printing	413	2,849	0	2,849	0
IT Equip Under \$5,000	4,545	13,000	0	13,000	0
Office Equip & Furn Supplies	3,431	9,950	0	9,950	0
Utilities	0	400	0	400	0
Insurance	1,120	1,010	0	1,010	0
Rentals/Leases-Equip & Other	3,126	5,579	0	5,579	0
Rentals/Leases - Bldg/Land	48,520	48,520	17,600	66,120	0
Repairs	0	2,000	0	2,000	0
IT - Data Processing	29,614	48,747	0	48,747	0
IT - Communications	8,948	15,000	0	15,000	0
IT Contractual Svcs and Rprs	462	1,000	0	1,000	0
Professional Development	10,475	15,000	0	15,000	0
Operating Fees and Services	2,169	2,000	0	2,000	0
Fees - Professional Services	364,675	365,700	239,300	605,000	0
Non-Operating Expenses	1,438	0	0	0	0
Total	516,918	592,117	256,900	849,017	0

Operating Expenses

General Fund	0	0	0	0	0
--------------	---	---	---	---	---

REQUEST DETAIL

140 Office of Administrative Hearings

Bill#: HB1017

Date: 01/13/2011

Time: 11:11:34

Biennium: 2011-2013

Description	Expenditures 2007-2009 Biennium	Present Budget 2009-2011	Budget Request Change	Requested Budget 2011-2013 Biennium	Optional Budget Request
Federal Funds	0	0	0	0	0
Special Funds	516,918	592,117	256,900	849,017	0
Total	516,918	592,117	256,900	849,017	0

Funding Sources

General Fund	0	0	0	0	0
Federal Funds	0	0	0	0	0
Special Funds	1,561,428	1,498,712	276,655	1,775,367	0
Total Funding Sources	1,561,428	1,498,712	276,655	1,775,367	0

CHANGE PACKAGE SUMMARY

140 Office of Administrative Hearings

Bill#: HB1017

Date: 01/13/2011

Time: 11:11:34

Biennium: 2011-2013

Description	Priority	FTE	General Fund	Federal Funds	Special Funds	Total Funds
<u>Base Budget Changes</u>						
Ongoing Budget Changes						
A-A 1 Rent Increase		0.00	0	0	17,600	17,600
A-A 2 Professional Services		0.00	0	0	239,300	239,300
Base Payroll Change		0.00	0	0	19,755	19,755
Total Ongoing Budget Changes		0.00	0	0	276,655	276,655
Total Base Budget Changes		0.00	0	0	276,655	276,655

BUDGET CHANGES NARRATIVE**140 Office of Administrative Hearings****Bill#: HB1017****Date:** 01/13/2011**Time:** 11:11:34

Change Group: A	Change Type: A	Change No: 1	Priority: 1
------------------------	-----------------------	---------------------	--------------------

Rent Increase - OAH will be moving at the end of the current biennium as its present location will be unavailable. A rent increase is anticipated.

OAH will be moving at the end of the current biennium as it can no longer rent from the Land Department because of the Land Department's need for additional space. Based on negotiations with a likely landlord, OAH anticipates a rent increase for the 2011-2013 biennium.

Change Group: A	Change Type: A	Change No: 2	Priority: 2
------------------------	-----------------------	---------------------	--------------------

Professional Services - Previous budget was based on usage of fewer contract ALJs for WSI hearings. This number has increased.

At WSI's request and by agreement with OAH, no less than 85 percent of WSI's hearings caseload is handled by OAH contract ALJs. OAH's 2009-2011 professional services budget was based on fewer contract ALJs; thus, there has been a shift from OAH permanent ALJs handling the majority of WSI hearings to OAH contract ALJs handling the majority of WSI hearings, with a resulting increase in professional services expenditures. There has been a corresponding decrease in OAH permanent ALJs from five to three. This will continue in the 2011-2013 biennium.